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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/679,541	10/06/2000	Kouya Tochikubo	198274US2TTC	8841
22850	7590	09/03/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			LANIER, BENJAMIN E	
		ART UNIT	PAPER NUMBER	
		2132	7	
DATE MAILED: 09/03/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/679,541	TOCHIKUBO ET AL. <i>[Signature]</i>
	<b>Examiner</b>	<b>Art Unit</b>
	Benjamin E Lanier	2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-13 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 October 2000 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
2. Claim 1 recites, "Ciphered encryption algorithm when said ciphered encryption algorithm is decrypted". If the algorithm is decrypted it is not a ciphered algorithm.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Otsuki, U.S. Patent No. 5,751,805. Referring to claims 1-5, 7, 8, 10-12, Otsuki discloses a data protecting system wherein upon purchase of an encrypted software package a user requests his identifier and decryption key from the software house (Col. 4, lines 1-17), which meets the limitation of a transmitter configured to transmit a demand to said center unit for obtaining an encrypted data needed for decrypting said ciphered encryption algorithm. The software house distributes the random encryption key to the user encrypted with the identifier (Col. 4, lines 1-10), which meets the limitation of a key controller configured to renew said common cipher-key so as to be identical with said renewed common cipher-key in case of receiving said demand from said

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transmitter, and an encoder configured to produce said encrypted data by encrypting a cipher-key with said renewed common cipher-key and to transmit said encrypted data to said terminal unit. Once the user receives the encrypted random encryption key the software installation module can prepare the loader to decrypt the software (Col. 4, lines 18-21). The encrypted random key is then decrypted using the identifier entered by the user. Once decrypted the random key is then used to decrypt an encrypted encryption algorithm that is stored on the user's IC card in order to decrypt the encrypted software (Col. 4, lines 34-46), which meets the limitation of an encryption controller configured to renew said common cipher-key in case of receiving said encrypted data from said center unit in response to said demand, and to produce an encryption algorithm by decrypting said encrypted data with the renewed common cipher-key.

Referring to claims 6, 13, Otsuki discloses that the encryption information can be stored on a CD-ROM (Col. 6, lines 17-25).

Referring to claim 9, Otsuki discloses that the users are authenticated before their requests are granted (Abstract), which meets the limitation of a verification controller configured to verify whether said terminal unit is authorized to use said encryption algorithm at the time of receiving said demand from said terminal unit, and to have said key controller renew said common cipher-key only if said terminal unit has the authorization.

### ***Conclusion***

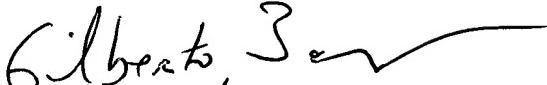
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin E Lanier whose telephone number is 703-305-7684, and 571-272-3805 after October 21st. The examiner can normally be reached on M-Th0 7:30am-5:00pm, F 7:30am-4pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on (703)305-1830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Benjamin E. Lanier

  
Gilberto Barron  
GILBERTO BARRON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100